

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONETTE WILSON,

Plaintiff,

v.

COMCAST CABLE,

Defendant.

Case No. 14-12218

Hon. Patrick J. Duggan

**ORDER REQUIRING PLAINTIFF TO FILE A SECOND
AMENDED COMPLAINT**

Plaintiff Ronnette Wilson, who is proceeding pro se, instituted the present civil action against Defendant Comcast Cable by filing a complaint on June 5, 2014. Upon reviewing this complaint to ensure that the Court possessed jurisdiction, the Court ordered Plaintiff to file an amended pleading by June 20, 2014, as the threadbare complaint, which sought to state a claim under the Americans with Disabilities Act of 1990 (“ADA”), contained virtually no factual enhancement. Plaintiff complied with this Order and, on June 20, 2014, filed an amended pleading. This amended pleading contains more factual enhancement, however, it bears the title of a motion to amend. On July 17, 2014, Defendant filed a Motion to Dismiss or for an Order Requiring Service of a Proper Complaint. In

this motion, Defendant seeks either dismissal for improper service pursuant to Federal Rule of Civil Procedure 12(b)(5) and for Plaintiff's purported failure to comply with the Court's previous Order, or, in the alternative, asks this Court to provide Plaintiff with a definite period of time to serve on Defendant an amended complaint that complies with the Federal Rules of Civil Procedure. Also pending before the Court is Plaintiff's Motion to Dismiss Defendant's pleadings. Having determined that oral argument would not significantly aid the decisional process, the Court dispensed with oral argument pursuant to Eastern District of Michigan Local Rule 7.1(f)(2). For the reasons below, the Court **GRANTS** Defendant's Motion on its alternative basis of relief and **DENIES** Plaintiff's Motion.

In its Motion, Defendant primarily objects to the form of Plaintiff's June 20, 2014 filing.¹ Having analyzed these objections, the Court concludes that Plaintiff must file a second amended complaint and that the filing must be labeled as a "Second Amended Complaint." This second amended complaint should also name Comcast Cable Communications Management, LLC as the defendant, not merely Comcast Cable. Further, the second amended complaint "must state its claims . . . in numbered paragraphs[.]" Fed. R. Civ. P. 10(b). Lastly, this second amended complaint must be signed by Plaintiff. Fed. R. Civ. P. 11(a) ("The court must

¹ The Court uses the modifier "primarily" because Defendant's objection to the improper service is rendered moot by its "willing[ness] to accept service through its undersigned counsel." (Def.'s Br. 4.)

strike an unsigned paper unless the omission is promptly corrected after being called to the . . . party's attention.”).² The Court notes that, contrary to Defendant's suggestion, Plaintiff's second amended complaint need not contain “a short and plain statement of the grounds for the court's jurisdiction,” as the Court has already determined that it possesses jurisdiction over the instant action. Fed. R. Civ. P. 8(a)(1). Had the Court lacked jurisdiction, it would have questioned the basis for jurisdiction in its previous Order. That Plaintiff's claim arises under the ADA, a federal statute, provides the requisite jurisdictional statement.

Plaintiff shall file her second amended complaint in accordance with the directives set forth in the previous paragraph on or before **SEPTEMBER 23, 2014**. Failure to comply with this Order will result in the dismissal of Plaintiff's case without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B). Because Defendant has indicated a “willing[ness] to accept service through its undersigned counsel[,]” (Def.'s Br. 4), Plaintiff need only submit her second amended complaint to the Court, as defense counsel will automatically receive a copy of the filing once it is docketed.

Accordingly,

² Despite being on notice of this signing requirement by virtue of Defendant's motion, Plaintiff failed to correct this deficiency. Plaintiff did, however, sign two subsequent filings submitted to this Court.

IT IS ORDERED that Defendant's Motion is **GRANTED** and Plaintiff is **ORDERED** to file a second amended complaint in accordance with this Order on or before **SEPTEMBER 23, 2014**;

IT IS FURTHER ORDERED that Plaintiff's Motion is **DENIED**.

Dated: September 9, 2014

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

Ronnette Wilson
634 Constitution Street
Canton, MI 48188

Eric J. Pelton, Esq.